

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6552

BILL NUMBER: HB 1368

DATE PREPARED: Feb 22, 2001

BILL AMENDED: Feb 21, 2001

SUBJECT: Regulation of Explosives.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines a "regulated explosive" to include a destructive device, an explosive, and a poison gas. It requires the office of the State Fire Marshal to periodically inspect places where regulated explosives are manufactured or stored. The bill also requires a manufacturer or handler of a regulated explosive to maintain insurance covering fire and explosion losses. This bill requires the office of the State Fire Marshal to issue a regulated explosives magazine permit to an applicant if the applicant meets certain qualifications. The bill creates criminal offenses for the manufacture, transport, distribution, possession, or use of certain regulated explosives or devices. It requires a physician or hospital administrator that is treating a person for an injury that was inflicted while the person was making or using a destructive device to report the case to a local law enforcement agency not more than 72 hours after the time the person is treated. The bill makes conforming amendments.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) This bill clarifies the current inspection requirements of the Office of the State Fire Marshal with regard to the manufacturing and storage of regulated explosives. The clarifications should not cause an increase in expenditures for the Office of the State Fire Marshal.

This bill also creates Class A, B, C and D felonies for violations specified in the bill. A Class A felony is punishable by a prison term ranging from 20 to 50 years depending upon mitigating and aggravating circumstances. A Class B felony is punishable by a prison term ranging from six to twenty years depending upon mitigating and aggravating circumstances. A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,700 in FY 1999. Individual facility expenditures range from \$14,936 to \$37,807. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the

average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class A felony offenders is approximately eight years, four months. The average length of stay in DOC facilities for all Class B felony offenders is approximately three years, six months; for all Class C felony offenders, the average length of stay is approximately two years, and for all Class D felony offenders, the average length of stay is approximately ten months.

This proposal also expands the existing provisions allowing the State to seek either a death penalty sentence or a sentence of life imprisonment without parole (LIWP). This measure may increase the number of LIWP and death penalty sentences. There are currently 52 persons serving LIWP. Currently, LIWP offenders are housed in the State Prison, Pendleton Correctional Facility, Women's Prison, Maximum Control, Westville Psychiatric Unit, and Wabash Valley Correctional Facility. The average operating cost of these facilities is \$19,410 per LIWP offender per year.

There are currently 43 persons under the death penalty in Indiana. The average appeal period for death row inmates is 13 to 14 years. All death row inmates are housed at the State Prison. Death penalty case appeals may involve expenditures by state entities, including: (1) the Office of the Attorney General; (2) the State Public Defender's Office; and (3) Supreme Court.

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A, B, C, and D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: The reporting by an administrator or the administrator's designee of a hospital or outpatient surgical center to a local law enforcement agency will not have a fiscal impact to the hospital or the local law enforcement agency.

If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Local expenditures may increase if death penalty cases are filed due the provisions of this bill. Research indicates that the trial and appeals costs for death penalty cases can be two or three times more than the costs of incarceration. (Death penalty case costs are further inflated due to additional police investigation and court time, prosecution resources, or the costs of a lengthy jury trial with a sequestered jury.)

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Office of the State Fire Marshal; Department of Correction.

Local Agencies Affected: Trial courts; Local law enforcement agencies; An administrator or the administrator's designee of a hospital or outpatient surgical center.

Information Sources: Office of the Attorney General; Indiana Sheriffs Association; Department of Correction.